

## Chapter 24

### ARTICLE V. DISTRICTS

#### DIVISION 9. LIMITED BUSINESS DISTRICT, LB

##### **Sec. 24-367. Statement of intent.**

The Limited Business District, LB, is intended to provide opportunities for a limited range of office, retail and service establishments of small to moderate size, with ~~small~~, well-landscaped parking areas *and an appropriate amount of perimeter and right-of-way landscape buffering when located adjacent to residentially zoned or Comprehensive Plan Land Use Map designated residential or agricultural property*. The district is characterized by the absence of nuisance factors such as constant heavy trucking and excessive noise, dust, light and odor. This classification is appropriate where proximity to residential areas, existing land uses, traffic patterns and other factors make it desirable to maintain a commercial character which is less intense than permitted in the General Business District, B-1. To enhance the character of the district and to improve its compatibility with low-density surroundings, limitations on building height and ~~bulk~~ *size* are imposed, and special requirements are imposed on areas designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan.

(Ord. No. 31A-88, 20-LB.1, 4-8-85; Ord. No. 31A-187, 3-23-99)

##### **Sec. 24-368. Permitted uses.**

Reference Section 24-11 for special use permit requirements for certain commercial uses and exemptions. In the Limited Business District, LB, buildings or structures to be erected or land to be used shall be for one or more of the following:

Adult day care centers.

An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the commercial use of the property.

*Auction houses.*

Bakeries and fish markets.

Banks and other similar financial institutions.

Barber and beauty shops.

Business, governmental and professional offices.

Catering and meal preparation 5,000 sq. ft. or less.

Child day care centers.

Contractor's offices (with storage of materials and equipment limited to a fully enclosed building).

Drug stores 10,000 sq. ft. or less.

Dry cleaners and laundries.

Feed, seed and farm supply stores.

Fire stations.

Funeral homes.

*Grocery Stores 10,000 sq. ft. or less.*

Health clubs, exercise clubs, fitness centers.

~~Houses of worship.~~

Libraries.

Lodges, civic clubs, fraternal organizations and service clubs.

Lumber and building supply (with storage limited to a fully enclosed building).

Mailing and facsimile transmission reception.

Medical clinics or offices.

New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building).

Off-street parking as required by this section 24-53.

Office supply stores, secretarial and duplicating services.

*Pet stores and pet supply sales.*

Photography studios and sales, artist and sculptor studios, *hobby shops*, art and crafts and handicraft shops, antique shops, reproduction and gift shops, *and souvenir shops*.

*Places of public assembly, including houses of worship or public meetings halls.*

Plumbing and electrical supply (with storage limited to a fully enclosed building).

Post offices.

~~Public meeting halls.~~

Restaurants (excluding fast food restaurants) tea rooms with 100 seats or less.

Retail and service stores, including the following stores: *appliances*, books, *cameras*, candy, carpet, coin, department, *discount*, dressmaking, *electronics*, florist, furniture, furrier, garden supply, *gourmet foods*, greeting card, gunsmith (excluding shooting ranges), hardware, *health and beauty aids*, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, *optical goods*, paint, ~~pet~~, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, *variety*, wearing apparel and yard goods.

Retail food stores 5,000 sq. ft. or less.

Schools, *public or private*.

Timbering in accordance with section 24-43.

Tourist homes.

Veterinary hospitals (with all activities limited to a fully enclosed building *with the exception of supervised animal exercise while on a leash*).

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

(Ord. No. 31A-88, 20-LB.2, 4-8-85; Ord. No. 31A-95, 4-7-86; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-174, 1-28-97; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-187, 3-23-99; Ord. No. 31A-244, 2-9-10)

**Sec. 24-369. Uses permitted by special use permit only.**

In the Limited Business District, LB, buildings or structures to be erected or land to be used for one or more of the following uses shall be permitted only after the issuance of a special use permit by the board of supervisors *and implementation of the performance standards listed in Section 24-269.1*:

Automobile service stations, in areas not designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan; if fuel is sold, then in accordance with section 24-38.

Convenience stores without the sale of fuel, *in areas not designated Neighborhood Commercial or Low Density Residential on the Comprehensive Plan Land Use Map*.

*Drug Stores 10,000 sq. ft. or more*

Electrical substations (public or private), with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.

*Firearms sales and service.*

Flea markets, in areas not designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan.

Marinas, docks, piers, yacht clubs, boat basins and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38.

*Privately or* publicly owned solid waste container sites.

Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit.

Restaurants (excluding fast food restaurants), tea rooms and taverns over 100 seats.

Retail food stores over 5,000 sq. ft.

Telephone exchanges and telephone switching stations.

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an

individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:

(a) Private connections to existing mains that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line;

(b) Distribution lines and local facilities within a development, including pump stations.

(Ord. No. 31A-88, 20-LB.3, 4-8-85; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-173, 12-10-96; Ord. No. 31A-187, 3-23-99; Ord. No. 31A-244, 2-9-10)

#### *Sec. 24-369.1. Performance Standards for Uses Permitted by Special Use Permit*

*The following performance standards shall be applicable to any use permitted by Special Use Permit in the Limited Business District, LB:*

- (1) Archaeology – A Phase I Archaeology Study for the entire property shall be submitted to the director of planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the director of planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Historic Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the director of planning and a treatment plan for said sites shall be submitted to and approved by the director of planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the director of planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.*
- (2) Architecture – Prior to final site plan approval, the director of planning shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the director of planning, with the architectural elevations submitted with the special use permit application and include the project title, date and name of the person and professional firm submitting the drawings or elevations.*
- (3) Landscaping – Prior to final site plan approval, the director of planning shall review and approve the proposed landscaping plan for the entire property. All required plantings located within the perimeter buffers of the property located along a public right-of-way identified on the Comprehensive Plan as a Community Character Corridor shall be required to meet 125% of size requirements and shall contain a minimum of 50 percent evergreen trees.*

*(4) Lighting – Prior to final site plan approval, a lighting plan shall be submitted to the director of planning for review and approval. All luminaries used shall be recessed fixture with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 foot-candle or higher shall occur outside the property lines without prior approval from the director of planning.*

*(5) Water Conservation Standards – The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority General Manager. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.*

*Unless otherwise required by this chapter, upon written request by the applicant, the director of planning may waive any performance standards requirement under 24-369.1 (1) – (5) after finding that such information would not be germane to the application.*

**Sec. 24-370. Special provisions for areas within the Limited Business District, LB, designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan.**

The Comprehensive Plan defines Neighborhood Commercial areas as limited business activity areas located within the primary service area, serving residents of the surrounding neighborhoods in the immediate area, and having only a limited impact on nearby development. Neighborhood Commercial development shall be compatible with surrounding development in terms of scale, building design, materials and color. The Comprehensive Plan specifies that within Low-Density Residential areas, non-residential uses should not alter, but rather, complement the residential character of the low-density residential area in which they are located. For non-residential uses in Low-Density Residential areas, measures shall be provided to protect nearby residential uses and the character of the surrounding area. The requirements of this section shall apply to areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan as determined by the director of planning.

*(a) Permitted uses.* For areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan, buildings to be erected or land to be used shall be for one or more of the uses as permitted in section 24-368.

*(b) Uses permitted with a special use permit only.* For areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan, buildings to be erected or land to be used shall be for one or more of the uses permitted in section 24-369 only after the issuance of a special use permit by the board of supervisors. A special use permit application shall demonstrate to the director of planning substantial conformance to the county's Neighborhood Commercial Development Standards policy.

*(c) Design standards.* Development within areas designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan shall demonstrate to the director of planning substantial consistency with the following provisions:

*(1) Large work area doors or open bays shall be screened from external roadways by fencing or landscaping or oriented on the sides or rear of the proposed building.*

(2) Heating, ventilating and air conditioning equipment, duct work, air compressors, and other fixed operating machinery shall be screened from adjoining property and the street right-of-way with fencing or landscaping *or parapet walls up to four feet above the height of the building on which the wall site if such equipment is located upon the roof.* Large trash receptacles, dumpsters, utility meters, above ground tanks, satellite dishes, antennas, etc. shall be similarly screened.

(3) If used, fences in front of buildings on the site *shall be decorative in appearance as determined by the director of planning and* shall be landscaped.

(4) Signs shall generally have no more than three colors. Generally, pastel colors shall not be used. Free-standing signs shall be of a ground-mounted monument type and shall not be larger than 32 square feet not erected to a height greater than eight feet *and shall employ ground mounted lighting concealed by landscaping.*

(5) Site landscaping shall be reviewed and approved by the director of planning and shall be consistent with the natural landscape and character of the surroundings. A unified landscape design shall be provided, including street trees.

(6) Compliance with the provisions of this subsection shall be evidenced by the submission to the director of planning of a site plan, in accordance with the requirements of section 24-145, site plan submittal requirements.

(d) *Building coverage limits.* For areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan, a special use permit issued in accordance with section 24-9 shall be required for any building that exceeds a ~~2,750~~ *5,000* square foot building footprint. A special use permit application shall demonstrate to the director of planning substantial conformance to the county's Neighborhood Commercial Development Standards policy.

(e) *Appeals.* In the event the director of planning disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the ~~planning commission~~ *director of planning to the development review committee who shall forward a recommendation to the Planning Commission.*

(Ord. No. 31A-187, 3-23-99)

#### **Sec. 24-371. Area requirements.**

No area requirements.

(Ord. No. 31A-88, 20-LB.4, 4-8-85; Ord. No. 31A-187, 3-23-99)

#### **Sec. 24-372. Setback requirements.**

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the street.

Setbacks may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the ~~development review committee~~ *director of planning. In the event the director of planning disapproves plans of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision to the development review committee who shall forward a recommendation to the planning commission.*

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The ~~development review committee~~ *director of planning* will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

- (a) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.
- (b) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.
- (c) The applicant has offered extraordinary site design which better meets the Development Standards of the Comprehensive Plan.

*Appeals. In the event the director of planning disapproves plans of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision to the development review committee who shall forward a recommendation to the planning commission.*

(Ord. No. 31A-88, 20-LB.5, 4-8-85; Ord. No. 31A-187, 3-23-99)

#### **Sec. 24-373. Yard regulations.**

- (a) The minimum side yard shall be 20 feet for each main structure. The minimum rear yard shall be 20 feet.
- (b) All accessory structures shall be located at least ten feet from any side lot line.
- (c) The minimum side yard shall be increased to 35 feet if the side yard adjoins property in a residential district or an agricultural district that is designated for residential use, on the Comprehensive Plan. The minimum rear yard shall be increased to 35 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side yard shall be increased to 50 feet if the property is designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan and the side yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be increased to 50 feet if the property is designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan and the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(Ord. No. 31A-88, 20-LB.6, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-187, 3-23-99)

#### **Sec. 24-374. Special provisions for the adjustment of yard requirements.**

The following may be eligible for a waiver from any part of section 24-373:

The subdivision of commercial property on which commercial units for sale, for sale in condominium, or for lease are:

(a) Constructed as part of a multiunit structure in which the units share common walls, or as part of a multiple-structure commercial development; and

(b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan *which has been legislatively approved by the Board of Supervisors.*

In these instances, the ~~planning commission~~ *director of planning* may grant, at ~~its~~ *his* discretion, a waiver from any part of section 24-373 upon finding:

(1) The overall complex or structure, if considered as a single unit, meets all of the requirements of section 24-373; and

(2) Adequate parking is provided as per the requirements of this chapter, and where determined necessary by the commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas; and

(3) Adequate provisions are made to assure compliance with article II, division 3 of this chapter, and where determined necessary by the commission, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and

(4) The complex or structure is adequately designed and serviced from the standpoint of safety, and the county fire chief certifies that the fire safety equipment to be installed is adequately designed and the county building official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.

*Appeals. In the event the director of planning disapproves plans of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision to the development review committee who shall forward a recommendation to the planning commission.*

(Ord. No. 31A-88, 20-LB.7, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-187, 3-23-99)

#### **Sec. 24-375. Height limits and height limitation waivers.**

(a) Structures may be erected up to 35 feet in height from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(b) Church spires, belfries, cupolas, athletic field lighting, chimneys, flues, monuments, flagpoles and wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:

1. Such structure will not obstruct light to adjacent property;
2. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
3. Such structure will not impair property values in the surrounding area;
4. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
5. Such structure will not be contrary to the public health, safety and general welfare.

(c) All accessory structures shall be ~~less~~ **lower in height** than the main structure ~~in height~~.

(Ord. No. 31A-88, 20-LB.9, 4-8-85; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-187, 3-23-99; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07)

#### **Sec. 24-376. Building coverage limits.**

Building coverage shall not exceed ~~20~~ **30** percent of the total lot area. The floor area ratio shall not exceed 40 percent of the total lot area.

(Ord. No. 31A-187, 3-23-99)

#### **Sec. 24-377. Sign regulations.**

To assure an appearance and condition which is consistent with the purposes of the Limited Business District, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(Ord. No. 31A-88, 20-LB.10, 4-8-85; Ord. No. 31A-187, 3-23-99)

#### **Sec. 24-378. Outdoor storage prohibited.**

The outdoor storage of materials, supplies and goods for sale shall be prohibited in the limited business district.

(Ord. No. 31A-88, 20-LB.11, 4-8-85; Ord. No. 31A-187, 3-23-99)

#### **Sec. 24-379. Site plan review.**

All buildings or complexes of buildings erected, altered or restored within the district shall be subject to site plan review in accordance with article III of this chapter.

(Ord. No. 31A-88, 20-LB.12, 4-8-85; Ord. No. 31A-187, 3-23-99)

#### **Sec. 24-380. Sidewalks.**

Sidewalks shall be required for all projects requiring site plan review in accordance with section 24-35.

(Ord. No. 31A-187, 3-23-99)

**Sec. 24-381. Landscaping.**

Landscaping shall be provided as required in article II, division 4.

(Ord. No. 31A-187, 3-23-99)

**Secs. 24-382 - 24-388. Reserved.**